



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,800	08/02/2001	Pascal Agin	Q65594	4292

7590 09/27/2004  
SUGHRUE, MION, ZINN,  
MACPEAK & SEAS, PLLC  
Suite 800  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3213

EXAMINER

BUI, BING Q

ART UNIT PAPER NUMBER

2642

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/919,800

**Applicant(s)**

AGIN, PASCAL

**Examiner**

Bing Q Bui

**Art Unit**

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7 and 11-19 is/are rejected.
- 7) ☒ Claim(s) 2,4,6 and 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                              |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/02/01</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

1. Claims 1-19 are pending in the application for examination.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 3, 5, 7 and 11-19 rejected under 35 U.S.C. 102(e) as being anticipated by Hermansson et al (US Pat No. 5,987,319), herein after referred as Hermansson.

Regarding claim 1, Hermansson teaches a method of evaluating the quality of a radio link in a mobile radiocommunication system from the net bit rate transmitted on said link (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 3, Hermansson teaches the method claimed in claim 1 wherein quality is evaluated on the basis of the relative net bit rate, which is defined as the ratio between said net bit rate and the gross bit rate (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 5, Hermansson teaches the method claimed in claim 3 wherein the number of bits of the blocks transmitted is a function of the modulation scheme used and said gross bit rate is determined for a given modulation scheme corresponding to a reference modulation regardless of the modulation scheme used (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 7, Hermansson teaches the method claimed in claim 5 wherein said reference modulation is a modulation of lower spectral efficiency (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 11, Hermansson teaches the mobile radiocommunication system for implementing the method claimed in claim 1 and adapted to evaluate the quality of a radio link from the net bit rate transmitted on said link (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 12, Hermansson teaches the system claimed in claim 1 wherein said link is an uplink (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 13, Hermansson teaches the system claimed in claim 1 wherein said link is a downlink (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 14, Hermansson teaches the mobile radiocommunication network entity for implementing the method claimed in claim 1 and adapted to evaluate

the quality of a radio link from the net bit rate transmitted on said link (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 15, Hermansson teaches the entity claimed in claim 14 wherein said link is an uplink (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 16, Hermansson teaches the entity claimed in claim 14 wherein said link is a downlink (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 17, Hermansson teaches the mobile station for implementing the method claimed in claim 1 and adapted to evaluate the quality of a radio link from the net bit rate transmitted on said link (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 18, Hermansson teaches the mobile station claimed in claim 17 wherein said link is a downlink (see col. 3, ln 25 – col. 6, ln 63).

Regarding claim 19, Hermansson teaches the mobile station claimed in claim 17 wherein said link is an uplink (see col. 3, ln 25 – col. 6, ln 63).

### ***Allowable Subject Matter***

4. Claims 2, 4, 6 and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art in general:

U.S. Pat. No. 6,212,386

U.S. Pat. No. 6,259,927

U.S. Pat. No. 6,347,217

U.S. Pat. No. 6,405,020

U.S. Pat. No. 6,549,785

U.S. Pat. No. 6,564,067


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bing Bui whose telephone number is (703) 308-5858. The examiner can normally be reached on Monday through Thursday from 7:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 and for formal communications intended for entry (please label the response

EXPEDITED PROCEDURE ) or for informal or draft communications not intended for entry (please label the response "PROPOSED" or "DRAFT").

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Sep 09, 2004



**BING Q. BUI**  
**PRIMARY EXAMINER**